

Council Communication

Department: Community Development	Resolution of Intent No. <u>09-129</u>	Set Public Hearing: 05/11/09
Offer To Buy City Property	Resolution to Dispose No. <u>09-150</u>	Public Hearing: 05/26/09
Applicant: Debra L. Danielsen		

Subject/Title

Request of Debra L. Danielsen, 332 Willow Avenue, Council Bluffs, IA 51503 to purchase 122 Bluff Street (Legal Description: The South 1/2 of Lot 5 and the North 10 feet of Lot 6, Block 2, Jackson's Addition and part of vacated Bluff Street adjacent).

Background/Discussion

Debra Danielsen has submitted an Offer to Buy the City owned property at 122 Bluff Street as legally described above. The City was given title to the property in March, 2009 after it was abandoned by the previous owner. The property measures 35 feet wide by 107 feet deep, is zoned R-2/Two Family Residential and is assessed at \$7,956.00 (land only) by the Pottawattamie County Assessor. The parcel is technically buildable, but the lot by itself is not marketable.

Ms. Danielsen wants to purchase the property for the assessed value and use the vacant ground to extend her back yard. Her terms for purchase, as stated in the Offer to Buy, are as follows: "City Building (Division) to remove dwelling, fence, driveways and sidewalks on the property and backfill and grade with surrounding property. Warranty Deed or Court Deed shall be provided to Debra L. Danielsen. Buyer's payment shall not exceed \$7,965. All back taxes, liens and other items shall be cleared from title."

The Council Bluffs Water Works has commented that the water service must be disconnected before the house is demolished. No other comments have been received.

Recommendation

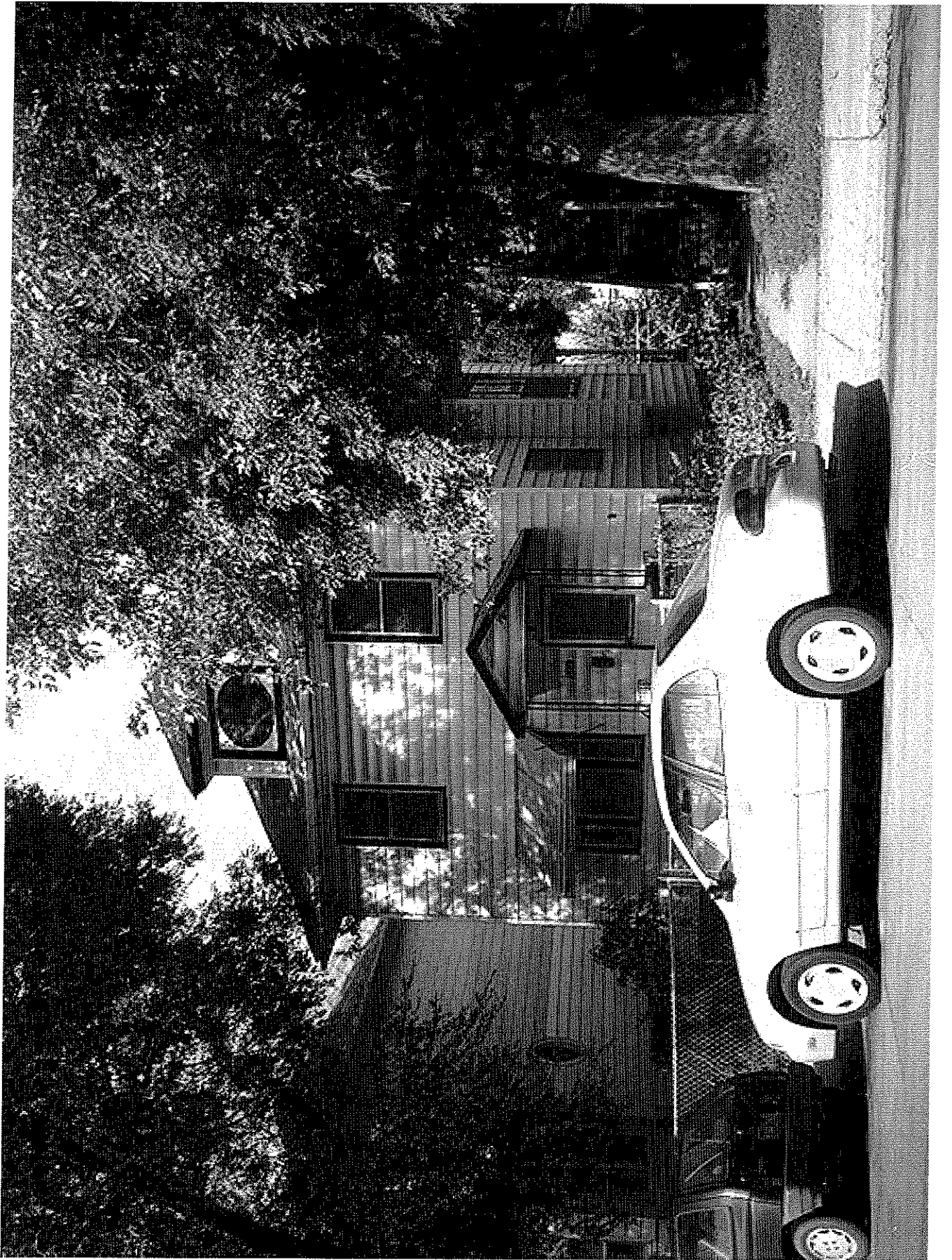
The Community Development Department recommends disposal of 122 Bluff to Debra Danielsen, subject to the following conditions:

1. The sale price shall be \$7,965.
2. The City shall remove the existing dwelling, private walks and drives and backfill the property to the existing grade.
3. The property will be conveyed by City deed.
4. The city will pro-rate the property taxes to the closing date and satisfy any liens on the property prior to transfer.

Attachment: Picture and location map.

Prepared By: Rebecca Sall, Planning Technician, Community Development Department

(Revised: (05/12/09))



OFFER TO BUY 122 BLUFF - DANIELSEN



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 09-150

A RESOLUTION AUTHORIZING DISPOSAL OF CITY PROPERTY LEGALLY DESCRIBED AS THE SOUTH 1/2 OF LOT 5 AND THE NORTH 10 FEET OF LOT 6, BLOCK 2, JACKSON'S ADDITION AND PART OF VACATED BLUFF STREET ADJACENT.

WHEREAS, this City Council previously expressed its intent to dispose of 122 Bluff Street, legally described as the South 1/2 of Lot 5 and the North 10 feet of Lot 6, Block 2, Jackson's Addition and part of vacated Bluff Street adjacent; and

WHEREAS, a public hearing has been held in this matter.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a quit claim deed conveying the City's interest in the above-described property as follows:

Debra L. Daniels and all successors in interest: The South 1/2 of Lot 5 and the North 10 feet of Lot 6, Block 2, Jackson's Addition and part of vacated Bluff Street adjacent; subject to the following:

1. The sale price shall be \$7,965.
2. The City shall remove the existing dwelling, private walks and drives and backfill the property to the existing grade.
3. The property will be conveyed by City deed.
4. The city will pro-rate the property taxes to the closing date and satisfy any liens on the property prior to transfer.

ADOPTED
AND
APPROVED: _____, 2009

Thomas P. Hanafan Mayor

ATTEST: _____
Marcia L. Worden, Acting City Clerk

Council Communication

Department: Parks, Recreation and Public Property	Ordinance No. _____ Resolution No. <u>09-153</u>	Date: <u>May 26, 2009</u>
Case/Project No.		
Applicant: Larry N. Foster		
Subject/Title		
City Council consideration of a resolution approving plans, specifications, and form of contract for the Bass Pro Roof Replacement Project and authorizing the City Clerk to advertise for bids for said project and setting the bid date for June 11 th , 2009, at 10:00 a.m.		
Background/Discussion		
<p>Bass Pro Shop sustained total roof damage from the storm that occurred in Council Bluffs on June 27, 2008.</p> <p>In response to the storm, Chubb Insurance, FEMA and representatives from the City inspected the roof and determined that there is substantial damage. FEMA included the Bass Pro Shop roof replacement as a line item on the FEMA Project Worksheet for the Bass Pro Shop. The estimated loss is \$328,475.00. The City has received \$328,475.00 from Chubb Insurance. Any additional costs, above the estimated loss, will be shared by Chubb Insurance and FEMA.</p> <p>The work for replacement of the Bass Pro Shop roof includes removal of existing shingles, installation of new membrane leak-barrier, composition and metal shingle roof replacement, repairs to existing TPO membrane roof, associated sheet metal repair and replacement and removing and reinstalling roof-top mounted signage to facilitate re-roofing. Materials include leak-barrier membrane, composition shingles, metal shingles, and thermal plastic polyolefin membrane.</p> <p>Bahr Vermeer & Haecker are the engineers for the project.</p>		
Recommendation		
I recommend that the City Council adopt the resolution approving plans, specifications and form of contract and authorizing the City Clerk to advertise for bids for said project and setting bid date June 11, 2009, at 10:00 a.m.		

Larry Foster

Thomas P. Hanafan

RESOLUTION NO. 09-153

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS AND FORM OF CONTRACT FOR THE BASS PRO ROOF REPLACEMENT PROJECT AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS AND SETTING THE BID DATE FOR JUNE 11, 2009, AT 10:00 A.M.

WHEREAS, the city of Council Bluffs desires to repair the roof on the Bass Pro Shop due to the damage it incurred during the June 27, 2008 storm; and

WHEREAS, FEMA and Chubb Insurance have inspected the roof, verified the need for substantial repairs; and

WHEREAS, Chubb Insurance has paid the City \$328,475.00, which equals the replacement cost and has agreed along with FEMA to split any additional costs associated with this project; and

WHEREAS, the Notice of Public Hearing was published as required by law and a Public Hearing was held on May 26, 2009.

NOW, THEREFORE, BE IT RESOLVED
BY THE
CITY COUNCIL OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications and form of contract for the Bass Pro Roof Replacement Project are hereby approved and the City Clerk is hereby authorized to advertise for bids for said project and setting bid date for June 11, 2009, at 10:00 A.M.

ADOPTED
AND
APPROVED _____, 2009

Thomas P. Hanafan Mayor

Attest:

Marcia L. Worden Acting City Clerk

CITY OF COUNCIL BLUFFS

INTER-OFFICE MEMO

DATE: May 13, 2009

TO: HONORABLE THOMAS P. HANAFAN, MAYOR

FROM: ART HILL, DIRECTOR OF FINANCE

RE: BUDGET AMENDMENT NUMBERS FOR FYE 2009

A public hearing is being scheduled for the May 26, 2009 Council Meeting for the purpose of amending the current year FYE 2009 operating budget. The following identifies the nature of the changes indicated in the "Current Amendment" column of the Budget Amendment.

EXPLANATION OF AMENDMENTS:

Revenues & Other Financing Sources

TIF Revenue

Old Airport - Targeted Jobs Credit		36,000
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Use of Money & Property

Bass Pro Operations		1,928,140
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Intergovernmental

Bass Pro - Pott. County Development	192,560	
Disaster Recovery	1,400,000	1,592,560

Miscellaneous

Trust Funds - Library Gifts & Memorials		135,000
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Other Financing Sources

Bond Proceeds - 2009A GO Bonds (refinanced)	2,435,000	
Bond Proceeds - 2009B GO Bonds	136,000	
		2,571,000
Total Amendments to Revenues & Other Financing Sources		6,262,700

Expenditures & Other Financing Uses

Public Safety

Fiduciary Funds - Retirees 411 Benefits	550,000	
Capital Projects Equipment	35,000	585,000

Public Works

Capital Projects - Mid City RR Projects		178,000
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Culture and Recreation

Trust Funds - Library Gifts & Memorials	135,000	
Capital Projects - Library books and tapes	28,000	
General Fund - Parks & Recreation - Forestry	1,500,000	1,663,000

Community and Economic Development

Bass Pro - Property taxes & Operating Expenses	1,120,700	
TIF - Targeted Jobs Credit	36,000	1,156,700

General Government

Capital Projects - Information Technology	170,000	
Capital Projects - Building	90,000	260,000

Debt Service

Bass Pro - Bond payment	1,000,000	
Debt Service Payment transferred BTA	364,250	
Debt Service - GO Bonds 2009A	62,000	
Debt Service - Go Bonds 2009B	128,000	
Debt Service - Called Bonds Principal & interest	<u>2,510,000</u>	4,064,250

Business Type Activity

Sewer Rntl D/S - transfer budget to Debt Service		-364,250
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Capital Projects

	-501,000
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Total Amendments to Expenses, Debt Service & Capital

<u><u>7,041,700</u></u>

Background and Requirement

The City of Council Bluffs is required, like all cities in Iowa to budget expenditures among nine “program” or functional areas. These include public safety, public health, culture and recreation, general government, etc.

In the event we determine that the need arises to spend more than originally budgeted, council approval of an amended budget is required and filing of the amended budget with the county auditor must be made with the county auditor prior to June 1.

This requirement applies only, and specifically to reported expenditures. Accordingly, if revenue and expenditures both increase in equal amounts, we are required to change the budget for the increased expenditures, but not the increased revenue.

Proposed Budget Amendment

We are projecting that expenditures will exceed budgeted amounts by a total of \$779,000 (when netted by reimbursement) in three areas; those areas are: Public Safety, Culture and Recreation. Details of the nature of the excess expenditures, as well and explanations regarding whether the added expenditures actually negatively impact the city’s financial position are presented next.

Culture and Recreation:

The high velocity wind storms the city encountered on June 27, 2008 destroyed or materially harmed hundreds of trees on public right of way and on public land. Representatives of both the City of Council Bluffs parks department and the Federal Emergency Management Agency (FEMA) worked together to prepare a comprehensive list of damaged locations and work began on clearing the damage. City representatives in the parks department determined that certain trees not damaged by the storm, but still in need of repair or removal, should be taken care of at the same time the storm related damage was being attended to. Doing so while contractors were in the area lowered the cost (per tree) of taking care of the trees, but ultimately added to the overall expenditures that the city will incur in the fiscal year ending June 30, 2009.

We are projecting to spend as much as \$1.5 million more than originally budgeted for Culture and Recreation in the fiscal year ending June 30, 2009. In addition, we are projecting to receive at least \$1.4 million revenue (reimbursements from FEMA and insurance) more than budgeted. Accordingly, the net impact of doing the added forestry work arising from the storm is approximately \$100,000 in added expense (net of reimbursements).

Since the costs of attending to these trees would have required attention at some point, doing so now and incurring these added costs in the “more efficient” manner is not viewed as a detrimental in the long run.

Debt Service:

The City of Council Bluffs will have completed two debt offerings in the fiscal year ending June 30, 2009. The costs associated with the debt offerings when added to other debt service (interest expense, bank processing fees, and bond principal repayments) costs will result in total debt service costs exceeding the budget amount by approximately \$129,000. While these costs do produce added debt service costs in the fiscal year ending June 30, 2009, the interest resulting interest savings more than offset the costs incurred.

Due to the net interest saved, not only are these added costs that approximate \$129,000 not detrimental, they are in fact beneficial in the long run.

Public Safety:

Iowa statutes require that cities pay for the continuing benefits and health care of retired police and fire fighters injured in the line of work. In addition certain illnesses and health conditions are presumed to have been a result of work without question. Retired employees select their own health care provider and the city is billed reasonable and customary rates which may exceed amounts charged via contracted health care plans.

In the current fiscal year, we are projecting that the costs associated with this care may exceed budgeted amounts (estimated in February of 2008) by as much as \$550,000. We know that this cost will continue to grow in the future because legislation was enacted by the Iowa legislature in spring 2009 to expand the number of health conditions that are presumed to have been work related.

**NOTICE OF PUBLIC HEARING
AMENDMENT OF CURRENT CITY BUDGET**

The City Council of Council Bluffs in POTTAWATTAMIE County, Iowa

will meet at City Hall

at 7:00 PM on May 26, 2009
(hour) (Date)

, for the purpose of amending the current budget of the city for the fiscal year ending June 30, 2009

by changing estimates of revenue and expenditure appropriations in the following functions for the reasons given.

Additional detail is available at the city clerk's office showing revenues and expenditures by fund type and by activity.

		Total Budget as certified or last amended	Current Amendment	Total Budget after Current Amendment
Revenues & Other Financing Sources				
Taxes Levied on Property	1	33,960,016		33,960,016
Less: Uncollected Property Taxes-Levy Year	2	329,293		329,293
Net Current Property Taxes	3	33,630,723	0	33,630,723
Delinquent Property Taxes	4	91,500		91,500
TIF Revenues	5	3,798,000	36,000	3,834,000
Other City Taxes	6	18,839,120		18,839,120
Licenses & Permits	7	3,146,650		3,146,650
Use of Money and Property	8	1,060,100	1,928,140	2,988,240
Intergovernmental	9	11,819,100	1,592,560	13,411,660
Charges for Services	10	13,628,618		13,628,618
Special Assessments	11	203,000		203,000
Miscellaneous	12	3,523,300	135,000	3,658,300
Other Financing Sources	13	25,892,634	2,571,000	28,463,634
Total Revenues and Other Sources	14	115,632,745	6,262,700	121,895,445
Expenditures & Other Financing Uses				
Public Safety	15	25,042,454	585,000	25,627,454
Public Works	16	7,646,826	178,000	7,824,826
Health and Social Services	17	591,893		591,893
Culture and Recreation	18	5,493,794	1,663,000	7,156,794
Community and Economic Development	19	5,813,207	1,156,700	6,969,907
General Government	20	11,240,272	260,000	11,500,272
Debt Service	21	10,896,734	4,064,250	14,960,984
Capital Projects	22	22,530,000	-501,000	22,029,000
Total Government Activities Expenditures	23	89,255,180	7,405,950	96,661,130
Business Type / Enterprises	24	14,306,265	-364,250	13,942,015
Total Gov Activities & Business Expenditures	25	103,561,445	7,041,700	110,603,145
Transfers Out	26	18,802,634		18,802,634
Total Expenditures/Transfers Out	27	122,364,079	7,041,700	129,405,779
Excess Revenues & Other Sources Over				
(Under) Expenditures/Transfers Out Fiscal Year	28	-6,731,334	-779,000	-7,510,334
Continuing Appropriation	29		N/A	0
Beginning Fund Balance July 1	30	26,542,656		26,542,656
Ending Fund Balance June 30	31	19,811,322	-779,000	19,032,322

Explanation of increases or decreases in revenue estimates, appropriations, or available cash:

Additional revenue includes Bass Pro revenues, Targeted Jobs Credits, Disaster Recovery funds, and bond sale proceeds. Expenditure changes include Bass Pro expenditures, disaster recovery costs, bond refinancing, and changes in other program expenditures.

There will be no increase in tax levies to be paid in the current fiscal year named above. Any increase in expenditures set out above will be met from the increased non-property tax revenues and cash balances not budgeted or considered in this current budget. This will provide for a balanced budget.

City Clerk/ Finance Officer Name

78-732

CITY BUDGET AMENDMENT AND CERTIFICATION RESOLUTION

To the Auditor of POTTAWATTAMIE County, Iowa:

The City Council of Council Bluffs in said County/Counties met on May 26, 2009, at the place and hour set in the notice, a copy of which accompanies this certificate and is certified as to publication. Upon taking up the proposed amendment, it was considered and taxpayers were heard for and against the amendment.

The Council, after hearing all taxpayers wishing to be heard and considering the statements made by them, gave final consideration to the proposed amendment(s) to the budget and modifications proposed at the hearing, if any. thereupon, the following resolution was introduced.

RESOLUTION No. _____

A RESOLUTION AMENDING THE CURRENT BUDGET FOR THE FISCAL YEAR ENDING JUNE : 2009
(AS AMENDED LAST ON _____.)

Be it Resolved by the Council of the City of Council Bluffs

Section 1. Following notice published _____
and the public hearing held, May 26, 2009 the current budget (as previously amended) is amended as set out herein and in the detail by fund type and activity that supports this resolution which was considered at that hearing:

		Total Budget as certified or last amended	Current Amendment	Total Budget after Current Amendment
Revenues & Other Financing Sources				
Taxes Levied on Property	1	33,960,016	0	33,960,016
Less: Uncollected Property Taxes-Levy Year	2	329,293	0	329,293
Net Current Property Taxes	3	33,630,723	0	33,630,723
Delinquent Property Taxes	4	91,500	0	91,500
TIF Revenues	5	3,798,000	36,000	3,834,000
Other City Taxes	6	18,839,120	0	18,839,120
Licenses & Permits	7	3,146,650	0	3,146,650
Use of Money and Property	8	1,060,100	1,928,140	2,988,240
Intergovernmental	9	11,819,100	1,592,560	13,411,660
Charges for Services	10	13,628,618	0	13,628,618
Special Assessments	11	203,000	0	203,000
Miscellaneous	12	3,523,300	135,000	3,658,300
Other Financing Sources	13	25,892,634	2,571,000	28,463,634
Total Revenues and Other Sources	14	115,632,745	6,262,700	121,895,445
Expenditures & Other Financing Uses				
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Excess Revenues & Other Sources Over				
(Under) Expenditures/Transfers Out Fiscal Year	28	-6,731,334	-779,000	-7,510,334
Continuing Appropriation	29	0	N/A	0
Beginning Fund Balance July 1	30	26,542,656	0	26,542,656
Ending Fund Balance June 30	31	19,811,322	-779,000	19,032,322

Passed this _____ day of _____
(Day) (Month/Year)

Signature
City Clerk/Finance Officer

Signature
Mayor

**NOTICE OF PUBLIC HEARING
AMENDMENT OF CURRENT CITY BUDGET**

Form 653.C1

The City Council of Council Bluffs in POTTAWATTAMIE County, Iowa
will meet at City Hall
at 7:00 PM on May 26, 2009
(hour) (Date)

, for the purpose of amending the current budget of the city for the fiscal year ending June 30, 2009
(year)

by changing estimates of revenue and expenditure appropriations in the following programs for the reasons given. Additional detail is available at the city clerk's office showing revenues and expenditures by fund type and by activity.

		Total Budget as certified or last amended	Current Amendment	Total Budget after Current Amendment
Revenues & Other Financing Sources				
Taxes Levied on Property	1	33,960,016	0	33,960,016
Less: Uncollected Property Taxes-Levy Year	2	329,293	0	329,293
Net Current Property Taxes	3	33,630,723	0	33,630,723
Delinquent Property Taxes	4	91,500	0	91,500
TIF Revenues	5	3,798,000	36,000	3,834,000
Other City Taxes	6	18,839,120	0	18,839,120
Licenses & Permits	7	3,146,650	0	3,146,650
Use of Money and Property	8	1,060,100	1,928,140	2,988,240
Intergovernmental	9	11,819,100	1,592,560	13,411,660
Charges for Services	10	13,628,618	0	13,628,618
Special Assessments	11	203,000	0	203,000
Miscellaneous	12	3,523,300	135,000	3,658,300
Other Financing Sources	13	25,892,634	2,571,000	28,463,634
Total Revenues and Other Sources	14	115,632,745	6,262,700	121,895,445
Expenditures & Other Financing Uses				
Public Safety	15	25,042,454	585,000	25,627,454
Public Works	16	7,646,826	178,000	7,824,826
Health and Social Services	17	591,893	0	591,893
Culture and Recreation	18	5,493,794	1,663,000	7,156,794
Community and Economic Development	19	5,813,207	1,156,700	6,969,907
General Government	20	11,240,272	260,000	11,500,272
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Total Gov Activities & Business Expenditures	25	103,561,445	7,041,700	110,603,145
Transfers Out	26	18,802,634	0	18,802,634
Total Expenditures/Transfers Out	27	122,364,079	7,041,700	129,405,779
Excess Revenues & Other Sources Over				
(Under) Expenditures/Transfers Out for Fiscal Year	28	-6,731,334	-779,000	-7,510,334
Continuing Appropriation	29	0	N/A	0
Beginning Fund Balance July 1	30	26,542,656	0	26,542,656
Ending Fund Balance June 30	31	19,811,322	-779,000	19,032,322

Explanation of increases or decreases in revenue estimates, appropriations, or available cash:

Additional revenue includes Bass Pro revenues, Targeted Jobs Credits, Disaster Recovery funds, and bond sale proceeds. Expenditure changes include Bass Pro expenditures, disaster recovery costs, bond refinancing, and changes in other program expenditures.

There will be no increase in tax levies to be paid in the current fiscal year named above. Any increase in expenditures set out above will be met from the increased non-property tax revenues and cash balances not budgeted or considered in this current budget. This will provide for a balanced budget.

City Clerk

Resolution 09-157

**A Resolution amending the current budget for the fiscal year ending June 30, 2009
and directing the finance director to file with proper authorities.**

Be it resolved by the City Council of the City of Council Bluffs, Iowa:

That the City of Council Bluffs published a Public Hearing notice on May 15, 2009 and the public hearing held May 26, 2009. The current budget is amended as set out in the published notification and in the detail by fund type and activity that supports this resolution which was considered at that hearing. The council further directs the Finance Director to file the amended budget with the appropriate authority.

Adopted and Approved: May 26, 2009

Thomas P. Hanafan, Mayor

Attest:

Marcia L. Worden, Acting City Clerk

Council Communication

Department: Community Development Case No. ZT-09-002	Ordinance No. 6030	City Council Meeting: 3-23-09 Planning Commission Meeting: 3-10-09 First Reading _____ Public Hearing continued to May 26, 2009 Third Reading _____
Subject/Title Define and prohibit installation of Wind Energy Conversion Systems (WECS) within the City of Council Bluffs by amending Chapter 15.03 of the Municipal Code (Zoning Ordinance) 'Definitions' to add new definition at §15.03.685 – 'Wind Energy Conversion System'.		
Background/Discussion As requested by City Council, an amendment to Title 15 of the Municipal Code (Zoning Ordinance) defining 'Wind Energy Conversion System' (WECS) and prohibiting their installation within the City follows: §15.03.685 Wind energy conversion system (WECS). Any device such as a wind turbine and tower, wind charger, windmill and associated control or conversion electronics, which converts wind energy to a form of usable energy. A Small Wind Energy Conversion System (SWECS) shall have a rated capacity of not more than one hundred kilowatts (100 kW) and which is intended primarily to reduce on-site consumption of utility power. A Commercial Wind Energy Conversion System (CWECS) shall have a rated generating capacity equal to or greater than one hundred kilowatts (100 kW). Tower height is the height above grade of the fixed portion of the tower, excluding the wind turbine itself. Total extended height is the height above grade to a blade tip at its highest point of travel. Wind energy conversion systems shall not be permitted within the corporate boundaries of the City of Council Bluffs.		
Prepared by: Gayle M. Malmquist, Development Services Coordinator		

ORDINANCE NO. _____

AN ORDINANCE to amend Chapter 15.03 "Definitions" of the 2005 Municipal Code of Council Bluffs, Iowa, by adding a new Section 15.03.685 "Wind energy conversion system (WECS)".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 15.03 "Definitions" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by enacting a new Section 15.03.685, entitled "Wind energy conversion system (WECS)", to read as follows:

"15.03.685 Wind energy conversion system (WECS). Any device, such as a wind turbine and tower, wind charger, windmill and associated control or conversion electronics, which converts wind energy to a form of usable energy. A Small Wind Energy Conversion System (SWECS) shall have a rated capacity of not more than one hundred kilowatts (100 kW) and which is intended primarily to reduce on-site consumption of utility power. A Commercial Wind Energy Conversion System (CWECS) shall have a rated generating capacity equal to or greater than one hundred kilowatts (100 kW). Tower height is the height above grade of the fixed portion of the tower, excluding the wind turbine itself. Total extended height is the height above grade to a blade tip at its highest point of travel. Wind energy conversion systems shall not be permitted within the corporate boundaries of the City of Council Bluffs."

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

ORDINANCE NO. _____

PAGE TWO

PASSED
AND _____, 2009
APPROVED

Thomas P. Hanafan, Mayor

Attest:

Marcia L. Worden, Acting City Clerk

First Consideration: _____

Second Consideration: _____

Public Hearing: _____

Third Consideration: _____

Planning Case ZT-09-002

Council Communication

Department and Applicant: Community Development Case No. ZT-09-002	Ordinance No. <u>6031</u>	City Council Meeting: 3-23-09 Planning Commission Meeting: 3-10-09 First Reading <u>3-23-09</u> Second Reading <u>4-13-09</u> Third Reading _____
<p style="text-align: center;">Subject/Title</p> <p>Amend various chapters of the Municipal Code (Zoning Ordinance) relative to Wind Energy Conversion Systems (WECS), as follows:</p> <ol style="list-style-type: none"> 1. Ordinance 6030, Chapter 15.03 'Definitions' – add new definition at §15.03.685 – 'Wind Energy Conversion System'. 2. Ordinance 6031, Add Wind Energy Conversion System (WECS) as a Conditional Use in Chapter 15.05 'A-2/Parks, Estates and Agricultural District, Chapter 15.08A 'R-1E/Single Family Residential Estates District', Chapter 15.08B – R-1/Single Family Residential District, Chapter 15.09 R-2/Two Family Residential District, Chapter 15.10 R-3/Low Density Multi-family Residential District, Chapter 15.20 I-1/Light Industrial District, 15.21 'I-2/General Industrial District' and I-3/Heavy Industrial District'. Small systems are a conditional use in the residential districts. Both the small and large systems are conditional uses in the A-2 and the three industrial districts. Change reference to Chapter 15.02 as needed. 3. Chapter 15.24 – 'Supplemental Use and Site Development Regulations', add new §15.24.085 'Wind energy conversion system (WECS) regulations and minimum standards'. 		
<p style="text-align: center;">Background/Discussion</p> <p>Attached for your consideration are proposed amendments to Title 15 of the Municipal Code relative to Wind Energy Conversion Systems (WECS). Due to increased interest in renewable energy sources and declining costs for smaller systems, several people have inquired about the City's regulations for installing such systems. Siting for such systems is not addressed in the Zoning Ordinance. The definition proposed for §15.03.685 establishes limits for both small and commercial systems based on power generation capacity. A conditional use permit approved through the Board of Adjustment is required to install any system. Wind energy conversion system (WECS) will be added to the 'Conditional uses' listing in the A-2, R-1E, R-1, R-2, R-3, I-1, I-2, and I-3 Districts. A commercial system would only be located in the A-2 and the three industrial districts, but a small system could be approved in those districts as well the cited residential districts. Setbacks, noise and utility notification requirements are listed along with safety and design standards in the new §15.24.085 of the Supplemental Use and Site Development Regulations chapter. Reference to the recently amended Chapter 2 regarding the authority of the Board of Adjustment (formerly in Chapter 27) is made. Proposed amendments are shown in Attachment 'A'. New text is <u>underlined</u>. Text to be removed is struck through.</p>		
<p style="text-align: center;">Recommendation</p> <p>The Community Development Department recommends amending Title 15 of the Municipal Code (Zoning Ordinance) as follows:</p> <ol style="list-style-type: none"> 1. Chapter 15.03 'Definitions' – add new definition at §15.03.685 – 'Wind Energy Conversion System'. 2. Add Wind Energy Conversion System (WECS) as a Conditional Use in Chapter 15.05 'A-2/Parks, Estates and Agricultural District, Chapter 15.08A 'R-1E/Single Family Residential Estates District', Chapter 15.08B – R-1/Single Family Residential District, Chapter 15.09 R-2/Two Family Residential District, Chapter 15.10 R-3/Low Density Multi-family Residential District, Chapter 15.20 I-1/Light Industrial District, 15.21 'I-2/General Industrial District' and I-3/Heavy Industrial District'. Small systems are a conditional use in the residential districts. Both small and large systems are conditional uses in the A-2 and the three industrial districts. Change reference to Board of Adjustment authority to Chapter 15.02. 3. Chapter 15.24 – 'Supplemental Use and Site Development Regulations', add new §15.24.085 'Wind energy conversion system (WECS) regulations and minimum standards'. 		
<p style="text-align: center;">Public Hearing</p> <p>Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.</p>		
<p style="text-align: center;">Planning Commission Recommendation</p> <p>The Planning Commission recommends amending Title 15 of the Municipal Code (Zoning Ordinance) as presented in Attachment 'A'.</p> <p>VOTE: AYE 6 NAY 0 ABSTAIN 0 ABSENT 6 Motion: Carried.</p>		
Attachments: Attachment 'A'		
Prepared by: Gayle M. Malmquist, Development Services Coordinator		

ORDINANCE NO. 6031

AN ORDINANCE to amend Chapters 15.05 “A-2/Parks, Estates and Agricultural District”, 15.08A “R-1E/Single Family Residential Estates District”, 15.08B “R-1/Single Family Residential District”, 15.09 “R-2/Two Family Residential District”, 15.10 “R-3/Low Density Multi-Family Residential District”, 15.20 “I-1/Light Industrial District”, 15.21 “I-2/ General Industrial District”, and 15.22 “I-3/Heavy Industrial District” of the 2005 Municipal Code of Council Bluffs, Iowa, to include Wind Energy Conversion System (WECS) as a conditional use in each chapter.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 15.05 “A-2/Parks, Estates and Agricultural District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.05.030 “Conditional uses” and enacting a new Section 15.05.030 “Conditional uses”, to read as follows:

“15.05.030 Conditional uses. The following conditional uses shall be permitted in an A-2 district in accordance with the requirements set forth in Chapter 15.~~27~~ 02:

01. Agricultural sales and service
02. Commercial recreation (outdoor)
03. Day care services
04. Extraction activity
05. Funeral service in conjunction with a cemetery
06. Outdoor firing range
07. Private campground
08. Sanitary landfill
09. Rubble dump
10. Wind energy conversion system (WECS), subject to Section 15.24.085.”

SECTION 2. That Chapter 15.08A “R-1E/Single Family Residential Estates District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.08A.030 “Conditional uses” and enacting a new Section 15.08A.030 “Conditional uses”, to read as follows:

“15.08A.030 Conditional uses. The following conditional uses shall be permitted in an R-1E district when authorized in accordance with the requirements set forth in Chapter 15.~~27~~ 02:

01. Cemetery
02. Day care services
03. Small wind energy conversion system (SWECS), subject to Section 15.24.085.”

SECTION 3. That Chapter 15.08B “R-1/Single Family Residential District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.08B.030 “Conditional uses” and enacting a new Section 15.08B.030 “Conditional uses”, to read as follows:

“15.08A.030 Conditional uses. The following conditional uses shall be permitted in an R-1 district when authorized in accordance with the requirements set forth in Chapter 15.27 02:

01. Cemetery
02. Day care services
03. Small wind energy conversion system (SWECS), subject to Section 15.24.085.”

SECTION 4. That Chapter 15.09 “R-2/Two Family Residential District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.09.030 “Conditional uses” and enacting a new Section 15.09.030 “Conditional uses”, to read as follows:

“15.09.030 Conditional uses. The following conditional uses shall be permitted in an R-2 district in accordance with the requirements set forth in Chapter 15.27 02:

01. Cemetery
02. Day care services
03. Small wind energy conversion system (SWECS), subject to Section 15.24.085.”

SECTION 5. That Chapter 15.10 “R-3/Low Density Multi-Family Residential District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by

repealing Section 15.10.030 “Conditional uses” and enacting a new Section 15.10.030 “Conditional uses”, to read as follows:

“15.10.030 Conditional uses. The following conditional uses shall be permitted in an R-3 district, when authorized in accordance with the requirements set forth in Chapter 15.27 02:

01. Cemetery
02. Colleges and universities
03. Commercial recreation (indoor and outdoor)
04. Business, professional office when the floor area for such use shall not exceed two thousand square feet
05. Cultural service
06. Day care services
07. Government maintenance facility.
08. Juvenile detention facility
09. Small wind energy conversion system (SWECS), subject to Section 15.24.085.”

SECTION 6. That Chapter 15.20 “I-1/Light Industrial District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.20.030

“Conditional uses” and enacting a new Section 15.20.030 “Conditional uses”, to read as follows:

“15.20.030 Conditional uses. The following conditional uses shall be permitted in an I-1 district in accordance with the requirements set forth in Chapter 15.27 02:

01. Correctional placement residences
02. Day care services
03. Detention facility
04. Equipment repair
05. Truck service establishment
06. Truck terminal
07. Wind energy conversion system (WECS), subject to Section 15.24.085.”

SECTION 7. That Chapter 15.21 “I-2/General Industrial District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section

15.21.030 “Conditional uses” and enacting a new Section 15.21.030 “Conditional uses”, to read as follows:

“15.21.030 Conditional uses. The following conditional uses shall be permitted in an I-2 district in accordance with the requirements set forth in Chapter 15.27 02:

01. Contractor yard
02. Correctional placement residences
03. Day care services
04. Detention facility
05. Grain storage and distribution
06. Rubble dump
07. Salvage operations
08. Storage yard
09. Emergency shelter and homeless service center
10. Commercial recreation (indoor)
11. Meat packing and processing
12. Wind energy conversion system (WECS), subject to Section 15.24.085.”

SECTION 8. That Chapter 15.22 “I-3/Heavy Industrial District” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.22.030

“Conditional uses” and enacting a new Section 15.22.030 “Conditional uses”, to read as follows:

“15.22.030 Conditional uses. The following conditional uses shall be permitted in an I-3 district in accordance with the requirements set forth in Chapter 15.27 02:

01. Rubble dump
02. Meat packing and processing
03. Wind energy conversion system (WECS), subject to Section 15.24.085.”

SECTION 9. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are Ordinance No. 5523, Section 2, (2000); Ordinance No. 5305, Section 1, Section 2 (part) (1996); Ordinance No. 5306,

Section 1 (part) (1996); Ordinance No. 5917, Section 2 (2007); Ordinance No. 5557, Section 2 (2001); Ordinance No. 5957, Section 2 (2007); Ordinance No. 5958, Section 3 (2007) .

SECTION 10. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 11. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND _____, 2009
APPROVED

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration March 23, 2009
Second Consideration: April 13, 2009
Public Hearing: April 13, 2009
Third Consideration: April 27, 2009

Planning Case ZT-09-002

Chapter 15.05

A-2/PARKS, ESTATES AND AGRICULTURAL DISTRICT

Sections:

- 15.05.010 Statement of intent
- 15.05.020 Principal uses
- 15.05.030 Conditional uses
- 15.05.040 Accessory uses
- 15.05.050 Site development regulations
- 15.05.060 Additional regulations
- 15.05.070 Signs

15.05.010 Statement of intent. This district is intended to preserve lands best suited for agricultural, recreational, and large-parcel residential uses. It is also intended to preserve land suited for eventual development, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities so that reasonably compact development will occur.

15.05.020 Principal uses. The following principal uses shall be permitted outright in an A-2 district:

- 01. Animal production
- 02. Cemetery
- 03. Dwelling, single family detached
- 04. Family home
- 05. Government maintenance facility
- 06. Horticulture and crop production
- 07. Local utility services
- 08. Park and recreation services
- 09. Public campground
- 10. Public safety services
- 11. Religious assembly

(Ord. #5523, Sec. 1,10/23/00)

15.05.030 Conditional uses. The following conditional uses shall be permitted in an A-2 district in accordance with the requirements set forth in Chapter 15.27 .02:

- 01. Agricultural sales and service
- 02. Commercial recreation (outdoor)
- 03. Day care services
- 04. Extraction activity
- 05. Funeral service in conjunction with a cemetery
- 06. Outdoor firing range
- 07. Private campground
- 08. Sanitary landfill
- 09. Rubble dump
- 10. Wind energy conversion system (WECS), subject to Section 15.24.085

(Ord. #5523, Sec. 2,10/23/00)

15.05.040 Accessory uses. Accessory uses shall include uses of land or structures customarily incidental and subordinate to one of the principal uses, unless otherwise excluded. In an A-2 District only, an accessory structure may exceed the ground floor coverage of the principal structure.

15.05.050 Site development regulations.

Minimum Lot Size

Lot area: 3 acres
 Lot width: 150 feet
 Lot depth: 200 feet

<u>Minimum Setbacks</u>	<u>Principal Structure</u>	<u>Accessory Structure</u>
Front yard:	50 feet	greater of 50 feet or existing front setback line of principal structure
Street side yard:	20 feet	20 feet
Side yard:	10% of lot width or 10 feet whichever is greater	10% of lot width or 10 feet whichever is greater
Rear yard:	20 feet	20 feet
Maximum height:	35 feet	25 feet
Lot coverage:	10% maximum - all structures	

15.05.060 Additional regulations.

01. Reserved

15.05.070 Signs. Signage in this district shall comply with Chapter 15.33 "Signs". (Ord. 5285, 8/26/96)

Chapter 15.08A

R-1E/SINGLE FAMILY RESIDENTIAL ESTATES DISTRICT

SECTIONS:

- 15.08A.010 Statement of intent
- 15.08A.020 Principal uses
- 15.08A.030 Conditional uses
- 15.08A.040 Accessory uses
- 15.08A.050 Site development regulations
- 15.08A.060 Additional regulations
- 15.08A.070 Signs

15.08A.010. Statement of intent. This district is intended for low density residential neighborhoods characterized by single family detached dwellings on large lots. This district is also intended for areas of the city in which sanitary sewer service is deemed to be impractical due to topography or the availability and proximity of sanitary services. It is also appropriate for established areas of the city where it serves to preserve existing low density neighborhoods and for newly developed areas where environmental concerns preclude smaller lots.

15.08A.020. Principal uses. The following principal uses shall be permitted outright in an R-1E district:

- 01. Community recreation services
- 02. Dwelling, single family detached
- 03. Family home
- 04. Local utility services
- 05. Park and recreation services
- 06. Public safety services
- 07. Religious assembly

15.08A.030. Conditional uses. The following conditional uses shall be permitted in an R-1E district when authorized in accordance with the requirements set forth in Chapter ~~15.24.02~~:

- 01. Cemetery
- 02. Day care services
- 03. Small wind energy conversion system (SWECS), subject to Section 15.24.085

15.08A.040. Accessory uses. The following accessory uses shall be permitted in an R-1E district:

- 01. Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded. No accessory structure shall exceed the ground floor coverage of the principal structure.

15.08A.050 Site Development Regulations.

Chapter 15.08B

R-1/SINGLE FAMILY RESIDENTIAL DISTRICT

Sections:

- 15.08B.010 Statement of intent
- 15.08B.020 Principal use
- 15.08B.030 Conditional uses
- 15.08B.040 Accessory uses
- 15.08B.050 Site development regulations
- 15.08B.060 Additional regulations
- 15.08B.070 Signs

15.08B.010 Statement of intent. This district is intended for low to moderate density residential neighborhoods characterized by single family structures with supporting community facilities. This district also permits single family attached and townhouse dwellings through subdivision and overlay requirements. The R-1 district is appropriate for established and developing areas of the city.

15.08B.020 Principal uses. The following principal uses shall be permitted outright in an R-1 district:

01. Community recreational services
02. Dwelling, single family attached (as permitted in a cluster subdivision as outlined in Chapter 14.10 of the municipal subdivision code)
03. Dwelling, single family detached
04. Dwelling, townhouse (as permitted in a planned residential overlay in Chapter 15.28 of the municipal zoning code)
05. Family home
06. Local utility services
07. Park and recreation service
08. Public safety service
09. Religious assembly
10. School

15.08B.030 Conditional uses. The following conditional uses shall be permitted in an R-1 district when authorized in accordance with the requirements set forth in Chapter 15.24 02:

01. Cemetery
02. Day care service
03. Small wind energy conversion system (SWECS), subject to Section 15.24.085

15.08B.040 Accessory uses. The following accessory uses shall be permitted in an R-1 district:

Chapter 15.09

R-2/TWO FAMILY RESIDENTIAL DISTRICT

Sections:

- 15.09.010 Statement of intent
- 15.09.020 Principal uses
- 15.09.030 Conditional uses
- 15.09.040 Accessory uses
- 15.09.050 Site development regulations
- 15.09.060 Additional regulations
- 15.09.070 Signs

15.09.010 Statement of intent. This district is intended to provide for a medium density residential neighborhood comprised of one and two family structures. This district permits single family, duplexes and townhomes. The district is also intended for established and developing areas of the community, as well as a transitional area between single family and multi-family housing developments.

15.09.020 Principal uses. The following principal uses shall be permitted outright in an R-2 district:

- 01. Community recreational services
- 02. Dwelling, single family attached
- 03. Dwelling, single family detached
- 04. Dwelling, townhouse (as permitted in a planned residential overlay in Chapter 15.28 of the municipal code)
- 05. Dwelling, two family
- 06. Family home
- 07. Local utility services
- 08. Park and recreation services
- 09. Public safety services
- 10. Religious assembly
- 11. School

15.09.030 Conditional uses. The following conditional uses shall be permitted in an R-2 district, in accordance with the requirements set forth in Chapter 15.24.02:

- 01. Cemetery
- 02. Day care services
- 03. Small wind energy conversion system (SWECS), subject to Section 15.24.085

15.09.040 Accessory uses. The following accessory uses shall be permitted in an R-2 district:

- 01. Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded. No accessory structure shall exceed the ground floor coverage of the principal structure.

Chapter 15.10

R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT

Sections:

- 15.10.010 Statement of intent
- 15.10.020 Principal uses
- 15.10.030 Conditional uses
- 15.10.040 Accessory uses
- 15.10.050 Site development regulations
- 15.10.060 Additional regulations
- 15.10.070 Signs

15.10.010 Statement of intent. The R-3 district is intended and designed for lower density multi-family residential areas of the city. This district permits a variety of housing types and is intended for established and developing areas of the city.

15.10.020 Principal uses. The following principal uses shall be permitted in an R-3 district:

- 01. Boarding, lodging, rooming house, or bed and breakfast
- 02. Community recreation services
- 03. Congregate housing, life care facility or nursing home
- 04. Dwelling, multi-family
- 05. Dwelling, single family attached
- 06. Dwelling, single family detached
- 07. Dwelling, townhouse
- 08. Dwelling, two family
- 09. Family home
- 10. Group care home
- 11. Local utility services
- 12. Park and recreation services
- 13. Private parking lot
- 14. Public parking lot
- 15. Public safety services
- 16. Religious assembly
- 17. School

(Ord. 5917, Sec. 1, 2/26/07)

15.10.030 Conditional uses. The following conditional uses shall be permitted in an R-3 district, when authorized in accordance with the requirements set forth in Chapter 15.2702:

- 01. Cemetery
- 02. Colleges and universities
- 03. Commercial recreation (indoor and outdoor)
- 04. Business, professional office when the floor area for such use shall not exceed two thousand square feet
- 05. Cultural service
- 06. Day care services

- 07. Government maintenance facility
- 08. Juvenile detention facility
- 09. Small wind energy conversion system (SWECS), subject to Section 15.24.085

(Ord. 5917, Sec. 2, 2/26/07)

15.10.040 Accessory uses. The following accessory uses shall be permitted in an R-3 district:

- 01. Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded.

15.10.050 Site development regulations.

Minimum Lot Size

Use	Lot area
Single family detached	5,000 square feet
Single family attached and two family dwelling	5,000 square feet except when a single family attached or two family dwelling is divided by a lot line coinciding with the common wall separating the two units, the minimum lot area shall be 2,500 square feet
Townhouse dwelling	7,500 square feet except when a townhouse dwelling unit is divided by a lot line coinciding with the common wall separating the units, the minimum lot area shall be 2,500 square feet
Multi-family dwelling (3 to 4 units)	7,500 square feet
(5 or more units)	9,000 square feet plus an increase of 2,000 square feet per each additional unit

<u>Minimum Setbacks</u>	<u>Principal Structure</u>	<u>Accessory Structure</u>
Front Yard:	20 feet	greater of 20 feet or existing front setback line of principal structure
Street side yard:	15 feet	15 feet
Interior side yard:	5 feet with one foot indentation for every story above the first floor	3 feet
Rear yard:	20 feet	3 feet
Maximum Height:	60 feet	18 feet

Chapter 15.20

I-1/LIGHT INDUSTRIAL DISTRICT

Sections:

- 15.20.010 Statement of intent
- 15.20.020 Principal uses
- 15.20.030 Conditional uses
- 15.20.040 Accessory uses
- 15.20.050 Site development regulations
- 15.20.060 Additional regulations
- 15.20.070 Signs

15.20.010 Statement of intent. The I-1 district is intended to provide for the development of light manufacturing and industrial areas. This district also accommodates a mixture of commercial services and light industrial uses with relatively limited external effects.

15.20.020 Principal uses. The following principal uses shall be permitted in an I-1 district:

- 01. Agricultural sales and service
- 02. Automobile repair, minor and major
- 03. Automobile sales and rental
- 04. Automobile service establishment
- 05. Building material, sale and storage
- 06. Business, professional office
- 07. Business service establishment
- 08. Commercial storage
- 09. Consumer service establishment
- 10. Contractor shop
- 11. Equipment sales and rental
- 12. Financial services
- 13. General government use
- 14. Governmental maintenance facility
- 15. Greenhouse, commercial
- 16. Hotel/motel
- 17. Kennel, commercial
- 18. Local utility service
- 19. Manufacturing, light
- 20. Private parking lot
- 21. Public parking lot
- 22. Public safety services
- 23. Retail shopping establishment
- 24. Tavern
- 25. Warehousing and distribution, limited

(Ord. 5557, Sec. 1, 3/26/01)

15.20.030 Conditional uses. The following conditional uses shall be permitted in an I-1 district in accordance with the requirements set forth in Chapter 15.27 02:

01. Correctional placement residences
02. Day care services
03. Detention facility
04. Equipment repair
05. Truck service establishment
06. Truck terminal
07. Wind energy conversion system (WECS), subject to Section 15.24.085

(Ord. 5557, Sec. 2, 3/26/01)

15.20.040 Accessory uses. The following accessory uses shall be permitted in an I-1 district:

01. Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded.

15.20.050 Site development regulations.

Minimum Lot Size

Lot area: 10,000 square feet

Lot width: 75 feet

Lot depth: 100 feet

<u>Minimum Setbacks</u>	<u>All Structures</u>
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Front yard:	25 feet
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Interior yard:	10 feet
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Street side yard:	15 feet
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Rear yard:	10 feet
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Maximum height:	50 feet
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Lot coverage – all structures:	60% maximum
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15.20.060 Additional regulations.

01. No tavern shall be located within two hundred feet of any school or religious building, public park, or any conforming residential use. Distance shall be measured between the closest points from lot line to lot line

15.20.070 Signs. Signage in this district shall comply with Chapter 15.33 "Signs".
(Ord. #5366, Sec. 3, 2/23/98)

I-2 / GENERAL INDUSTRIAL DISTRICT

Sections:

- 15.21.010 Statement of intent
- 15.21.020 Principal uses
- 15.21.030 Conditional uses
- 15.21.040 Accessory uses
- 15.21.050 Site development regulations
- 15.21.060 Additional regulations
- 15.21.070 Signs

15.21.010 Statement of intent. This district is intended to provide for the development of general manufacturing and industrial areas. This district is designed to accommodate industrial uses with moderate external effects.

15.21.020 Principal uses. The following principal uses shall be permitted in the I-2 district:

- 01. Agricultural sales and service
 - 02. Automobile repair, minor and major
 - 03. Automobile sales and rental
 - 04. Automobile service establishment
 - 05. Building material, sale and storage
 - 06. Business service establishment
 - 07. Commercial storage
 - 08. Contractor shop
 - 09. Data center
 - 10. Equipment repair
 - 11. Equipment sales and rental
 - 12. Governmental maintenance facility
 - 13. Greenhouse, commercial
 - 14. Local utility service
 - 15. Manufacturing, light and general
 - 16. Private parking lot
 - 17. Public parking lot
 - 18. Public safety services
 - 19. Railroad yard and intermodal facilities
 - 20. Sign manufacturing
 - 21. Tavern
 - 22. Truck service establishment
 - 23. Truck terminal
 - 24. Warehousing and distribution, limited and general
- (Ord. 5957, Sec. 1, 12/10/07)

15.21.030 Conditional uses. The following conditional uses shall be permitted in an I-2 district in accordance with the requirements set forth in Chapter 15.2702:

01. Contractor yard
02. Correctional placement residences
03. Day care services
04. Detention facility
05. Grain storage and distribution
06. Rubble dump
07. Salvage operations
08. Storage yard
09. Emergency shelter and homeless service center
10. Commercial recreation (indoor)
11. Meat packing and processing
12. Wind energy conversion system (WECS), subject to Section 15.24.085

(Ord. 5957, Sec. 2, 12/10/07)

15.21.040 Accessory uses. The following accessory uses shall be permitted in an I-2 district:

01. Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded.

15.21.050 Site development regulations.

Minimum Lot Size

Lot area: 15,000 square feet

Lot width: 75 feet

Lot depth: 150 feet

<u>Minimum Setbacks</u>	<u>All Structures</u>
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Front yard:	15 feet
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Interior yard:	10 feet
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Street side yard:	10 feet
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Rear yard:	10 feet
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Maximum height:	75 feet
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Lot coverage – all structures:	70% maximum
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(Ord. 5957, Sec. 3, 12/10/07)

Chapter 15.22

I-3 / HEAVY INDUSTRIAL DISTRICT

Sections:

15.22.010	Statement of intent
15.22.020	Principal uses
15.22.030	Conditional uses
15.22.040	Accessory uses
15.22.050	Site development regulations
15.22.060	Additional regulations
15.22.070	Signs

15.22.010 Statement of intent. The I-3 district is intended to provide areas of the city for activities and uses of a heavy industrial character. This district is designed to accommodate industrial uses which have significant external effects. These uses typically have operating characteristics and environmental effects that make them incompatible with surrounding uses. The I-3 district is most appropriately located in areas that are separated from residential and consumer-oriented commercial districts. (Ord.5958, Sec 1, 12/10/07)

15.22.020 Principal uses. The following principal uses shall be permitted outright in an I-3 district:

1. Agricultural sales and service
2. Chemical plant
3. Electric utility generation facility
4. Governmental maintenance facility
5. Grain storage and distribution
6. Horticulture and crop production
7. Local utility service
8. Manufacturing, general and heavy
9. Railroad yard and intermodal facilities
10. Sign manufacturing
11. Truck service establishment
12. Truck terminal
13. Warehousing and distribution, limited and general

(Ord. 5958, Sec. 2, 12/10/07)

15.22.030 Conditional uses. The following conditional use(s) shall be permitted in an I-3 district in accordance with the requirements set forth in Chapter 15.2702:

01. Rubble dump
02. Meat packing and processing
03. Wind energy conversion system (WECS), subject to Section 15.24.085

Council Communication

Department and Applicant: Community Development Case No. ZT-09-002	Ordinance No. <u>6032</u>	City Council Meeting: 3-23-09 Planning Commission Meeting: 3-10-09 First Reading <u>3-23-09</u> Second Reading <u>4-13-09</u> Third Reading
Subject/Title Amend various chapters of the Municipal Code (Zoning Ordinance) relative to Wind Energy Conversion Systems (WECS), as follows: 1. Ordinance 6030, Chapter 15.03 'Definitions' – add new definition at §15.03.685 – 'Wind Energy Conversion System'. 2. Ordinance 6031, Add Wind Energy Conversion System (WECS) as a Conditional Use in Chapter 15.05 'A-2/Parks, Estates and Agricultural District, Chapter 15.08A 'R-1E/Single Family Residential Estates District', Chapter 15.08B – R-1/Single Family Residential District, Chapter 15.09 R-2/Two Family Residential District, Chapter 15.10 R-3/Low Density Multi-family Residential District, Chapter 15.20 I-1/Light Industrial District, 15.21 'I-2/General Industrial District' and I-3/Heavy Industrial District'. Small systems are a conditional use in the residential districts. Both the small and large systems are conditional uses in the A-2 and the three industrial districts. Change reference to Chapter 15.02 as needed. 3. Ordinance 6032 Chapter 15.24 – 'Supplemental Use and Site Development Regulations', add new §15.24.085 'Wind energy conversion system (WECS) regulations and minimum standards'.		
Background/Discussion Attached for your consideration are proposed amendments to Title 15 of the Municipal Code relative to Wind Energy Conversion Systems (WECS). Due to increased interest in renewable energy sources and declining costs for smaller systems, several people have inquired about the City's regulations for installing such systems. Siting for such systems is not addressed in the Zoning Ordinance. The definition proposed for §15.03.685 establishes limits for both small and commercial systems based on power generation capacity. A conditional use permit approved through the Board of Adjustment is required to install any system. Wind energy conversion system (WECS) will be added to the 'Conditional uses' listing in the A-2, R-1E, R-1, R-2, R-3, I-1, I-2, and I-3 Districts. A commercial system would only be located in the A-2 and the three industrial districts, but a small system could be approved in those districts as well the cited residential districts. Setbacks, noise and utility notification requirements are listed along with safety and design standards in the new §15.24.085 of the Supplemental Use and Site Development Regulations chapter. Reference to the recently amended Chapter 2 regarding the authority of the Board of Adjustment (formerly in Chapter 27) is made. Proposed amendments are shown in Attachment 'A'. New text is <u>underlined</u> . Text to be removed is struck through .		
Recommendation The Community Development Department recommends amending Title 15 of the Municipal Code (Zoning Ordinance) as follows: 1. Chapter 15.03 'Definitions' – add new definition at §15.03.685 – 'Wind Energy Conversion System'. 2. Add Wind Energy Conversion System (WECS) as a Conditional Use in Chapter 15.05 'A-2/Parks, Estates and Agricultural District, Chapter 15.08A 'R-1E/Single Family Residential Estates District', Chapter 15.08B – R-1/Single Family Residential District, Chapter 15.09 R-2/Two Family Residential District, Chapter 15.10 R-3/Low Density Multi-family Residential District, Chapter 15.20 I-1/Light Industrial District, 15.21 'I-2/General Industrial District' and I-3/Heavy Industrial District'. Small systems are a conditional use in the residential districts. Both small and large systems are conditional uses in the A-2 and the three industrial districts. Change reference to Board of Adjustment authority to Chapter 15.02. 3. Chapter 15.24 – 'Supplemental Use and Site Development Regulations', add new §15.24.085 'Wind energy conversion system (WECS) regulations and minimum standards'.		
Public Hearing Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
Planning Commission Recommendation The Planning Commission recommends amending Title 15 of the Municipal Code (Zoning Ordinance) as presented in Attachment 'A'. VOTE: AYE 6 NAY 0 ABSTAIN 0 ABSENT 6 Motion: Carried.		
Attachments: Attachment 'A'		
Prepared by: Gayle M. Malmquist, Development Services Coordinator		

ORDINANCE NO. 6032

AN ORDINANCE to amend Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, by adding a new Section 15.24.085 “Wind energy conversion system (WECS) regulations and minimum standards”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by enacting a new Section 15.24.085, entitled “Wind energy conversion system (WECS) regulations and minimum standards”, to read as follows:

“15.24.085 Wind energy conversion system (WECS) regulations and minimum standards. A conditional use permit may be granted to allow wind energy conversion systems to operate in the cited zoning districts, subject to the following minimum standards:

01. The base of the tower shall be set back from all property lines, public right-of-way and public utility lines a distance equal to the total extended height. No portion of the total extended height shall be in front of the front of the principle structure or into the front or street side yard setback for the zoning district in which it is situated. A reduction may be granted to a specific setback distance if the Board finds that such reduction shall not adversely affect surrounding property and does not interfere with public utility lines or public road and rail rights-of-way.

02. The minimum distance between the tower support bases of any two WECS under different ownership shall be five times the diameter of the largest rotor. A reduction may be granted in this requirement if it finds that such a requirement does not adversely affect the operation of either WECS.

03. WECS operation shall not cause interference with power quality of area utility feeder circuits and shall not introduce noise to the connected electric distribution system. WECS shall not cause interference to radio, telephone, microwaves or television reception on adjoining property.

04. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility’s then current service regulations applicable to WECS. Evidence is required that the utility company has been informed and has approved the customer’s intent to install an interconnection customer- owned generator, prior to issuance of any construction permit. Owners shall also inform the electric utility of their intent to install off-grid systems prior to issuance of any construction permit.

05. Data pertaining to the turbine safety and stability shall be filed with the conditional use permit application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization, based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Turbine Verification Program or other certification program recognized by the American Wind Energy Association.

06. Sound produced by the turbine under normal operation conditions as measured at the property line, shall not exceed the definition of nuisance noise and defined in Section 4.50.080 'Sound levels by receiving land use' in Chapter 4.50 'Noise Control' of the Municipal Code. Sound levels may be exceeded during short-term events out of anyone's control, such as utility outages and/or severe weather.

07. No WECS shall be constructed, altered or maintained to project above the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.

08. A WECS shall be considered a discontinued use after six consecutive months without energy production. All WECS and accessory facilities shall be completely removed at owner's expense within 180 days of the discontinuation of use. The 180 day limit may be extended if proof of weather delay is provided.

09. Rooftop turbines, not to exceed three (3) feet in total extended height, also known as architecturally integrated or vertical axis wind turbines are exempt from these requirements, if the total extended height does not exceed the maximum height permitted for the structure upon which it is placed.

10. Safety and design standards:

- (a) Rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
- (b) All wind turbines shall be installed with a tubular, monopole type tower.
- (c) All wind turbines and towers shall be white, gray or another non-obtrusive color. Blades may be black, in order to facilitate de-icing. Finishes shall be matte or non-reflective.
- (d) All communications and connector lines associated with the project distribution system shall be buried.
- (e) Installation shall comply with the National Electrical Code. Line drawings with sufficient detail to substantiate compliance shall accompany the application.
- (f) Standard drawings of the wind turbine structure, including the tower, base and footings, along with an engineering analysis showing compliance with applicable regulations and certified by a licensed professional engineer shall accompany the application.
- (g) Installation shall be completed by a qualified professional, certified by the manufacturer to install the system according to the manufacturer's recommendations.
- (h) Outdoor storage is not permitted.
- (i) Signs. All signs, including the manufacturer or installer's identification, appropriate warning signs, or owner's identification on the WECS visible from any public road is prohibited.

(j) Lighting. No illumination of the turbine or tower shall be allowed unless required by the FAA.

(k) Access. Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing.”

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED April 27, 2009

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 23, 2009
Second Consideration: April 13, 2009
Public Hearing: April 13, 2009
Third Consideration: April 27, 2009

Planning Case ZT-09-002

SUPPLEMENTAL USE AND SITE DEVELOPMENT REGULATIONS

Sections:

15.24.010	Purpose
15.24.020	Accessory uses
15.24.030	Home occupation
15.24.040	Fence regulations
15.24.050	Lighting controls
15.24.060	Yard exceptions and permitted intrusions into required yards
15.24.070	Height exceptions
15.24.080	Antenna and tower regulations
15.24.085	<u>Wind energy conversion system (WECS) regulations and minimum standards</u>
15.24.090	Front yard exception in residential districts
15.24.100	Rear yard exception in residential districts

15.24.010 Purpose. Supplemental use and development regulations set forth additional standards for certain uses within various zoning districts recognizing that certain uses have operating characteristics that require additional regulations to protect the public health, safety and welfare. These supplemental regulations complement the uses permitted in each zoning district, qualify or modify the district site development regulations and provide for specific areas of exception.

15.24.020 Accessory uses. Unless otherwise permitted, only one principal structure or use is permitted per lot. Unless otherwise prohibited or restricted, a permitted principal use also allows uses, buildings and structures incidental to the permitted use, if located on the same site or building lot. The accessory use and/or structures or buildings shall not be established or erected prior to the establishment or construction of the principal permitted use of the building, structure or land and shall be subordinate, incidental to and compatible with the character of the principal permitted use.

The following types of accessory uses shall be permitted in residential districts, subject to the site development regulations for the zoning district in which it is located, unless otherwise provided in these regulations:

01. Fencing, subject to Section 15.24.040;
02. Garage sales, limited to six days during any calendar year;
03. Garage, and off-street parking for personal vehicles, subject to Chapter 15.23;
04. Greenhouse, for personal, non-commercial use only;
05. Home occupation, subject to Section 15.24.030;
06. Radio and communications receiving antenna and tower, subject to Section 15.24.080;
07. Swimming pool, including a bath house, tennis court or other recreational facilities commonly accessory to a dwelling and used only by the residents and non-paying guests;
08. Tool, storage shed, gazebo, patio, and similar buildings and structures for personal noncommercial use only;

09. Structures for the shelter of household pets, for personal non-commercial use.

15.24.030 Home occupation. A home occupation shall be subject to the following requirements:

01. A home occupation shall be conducted entirely within the dwelling or principal building and may not employ any individuals other than residents of the dwelling;
02. Such use shall be incidental and secondary to the residential use of the dwelling and shall not change the residential character;
03. No signs, radio, television, newspaper, handbill or other similar types of advertising are permitted linking the address of the premises with the home occupation;
04. A home occupation shall be limited to performance of services only and no commodity, directly or incidental shall be sold on the premises;
05. There shall be no exterior storage of equipment or materials used in a home occupation;
06. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.

15.24.040 Fence regulations. Fences, including masonry walls, vegetation, ornamental iron, chain link, open wood, solid wood or metal, forming a physical barrier, placed on private property, used for any purpose shall conform to the following requirements:

01. General Requirements For All Zoning Districts.
 - (a) No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.
 - (b) The height of a fence shall be measured from the grade on which the fence is placed.
 - (c) The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.
 - (d) No fence or any other obstruction shall be placed within an equilateral triangle having sides of thirty-five (35) feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.
 - (e) No fence shall be placed within three feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.
02. General Requirements for Open Space/Recreation and Industrial Districts.
 - (a) A fence placed in any yard shall not exceed eight feet in height.
 - (b) In I-2 and I-3 Districts when the parcel is 50 contiguous acres or more, a fence not to exceed 10 feet in height is permitted in the interior, street side and rear yards. In the front yard, the height of the fence shall not exceed 8 feet unless its placement meets the setback requirements for structures. Fencing material for a 10 foot tall fence shall be limited to vinyl coated chain link material with no sharp or pointed projections or barbed wire strands permitted.

- (c) Barbed wire fences zero to six feet in height are permitted in A-1 and A-2 districts for agricultural uses only.
 - (d) Security fences with sharp or pointed projections or containing barbed wire strands are allowed in the A-2, I-1, I-2, and I-3 districts if placed atop a conforming fence of at least six feet in height, with total fence height not to exceed eight feet.
 - (e) Electrically-charged fences located within the boundaries of a conforming fence are permitted in A-1, A-2, I-1, I-2 and I-3 districts for agricultural uses only.
03. General Requirements for Residential and Commercial Districts.
- (a) In a front yard or a street side yard, the height of a fence shall not exceed 4 feet, unless its placement meets the setback requirements for principal and accessory structures. Exception: ornamental iron fences located in front or street side yards may exceed four foot in height, but are limited to six feet in overall height.
 - (b) No solid fence shall be placed within a front yard or street side yard which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.
 - (c) In an interior side yard or rear yard, the height of a fence, excepting vegetation fences, shall not exceed six feet. Fences in residential areas proposed to exceed six feet in height shall be reviewed on a case by case basis by the mayor or designee.
 - (d) Security fences with sharp or pointed projections or containing barbed wire strands may be permitted in a C-2 District when placed on top of an otherwise conforming fence, if the following conditions are met:
 - (i) The site shall not abut any residential district; and
 - (ii) The use shall comply with all requirements for conforming uses and the site development regulations in a C-2 District.
04. Required Fences.
- (a) A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:
 - (i) A wood and/or masonry fence, at least fifty (50) percent opaque, six feet in height;
 - (ii) A vegetation fence capable of providing a substantially opaque barrier and attaining a height of six feet within three years of planting;
 - (iii) A landscaped earth berm with a maximum slope of three to one vertical/horizontal, no more than six feet above the existing grade of the property line separating the zoning districts; or
 - (iv) Any combination of the described methods that achieves a cumulative height of six feet.

05. **Maintenance.** Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.
(Ord. No. 5963, Sec. 1, 1/28/08)

15.24.050 Lighting controls. Any light used for the illumination of signs, parking areas, swimming pools or for any other purpose shall be arranged in such a manner as to direct the light away from neighboring residential properties and away from the vision of passing motorists and pedestrians.

15.24.060 Yard exceptions and permitted intrusions into required yards. The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

01. The following building features may project into the required front yard no more than six feet and into the required side yards no more than three feet, provided that such projections are no closer than three feet to any side yard line:
 - (a) Chimneys and fireplaces;
 - (b) Porches, as defined in Chapter 15.03, platforms and landings which do not extend above the level of the first floor of the building.
02. The following building features may project into the required front yard no more than three feet and into the required side yard no more than three feet, provided that such projections are no closer than three feet to any side yard line:
 - (a) Eaves, cornices, belt courses, leaders, sills, awnings, lintels, gutters, and other similar features.
03. Ramps constructed to make a structure accessible to persons with disabilities may project into the required yard(s) to the extent necessary for access, if, upon review by the mayor or designee, it is determined that the ramp has been designed to minimize the intrusion into the required yard(s) and creates no hazard to the public.

15.24.070 Height exceptions. The following types of structures are not subject to the height limitations of this title: chimneys, church spires, cupolas, elevator shafts, fire and hose towers, observation towers and water towers.
(Ord. No. 5963, Sec. 2, 1/28/08)

15.24.080 Antenna and tower regulations. Radio towers, operated by amateur radio operators and other communications devices intended for personal, non-commercial use, may exceed the height limitation of the zoning district in which it is located by not more than 25 percent. The device shall not be located in any required yard of the principal use.

15.24.085 - Wind energy conversion system (WECS) regulations and minimum standards. A conditional use permit may be granted to allow wind energy conversion systems to operate in the cited zoning districts, subject to the following minimum standards:

01. The base of the tower shall be set back from all property lines, public right-of-way and public utility lines a distance equal to the total extended height. No portion of the total extended height shall be in front of the front of the principle structure or into the front or street side yard setback for the zoning district in which it is situated. A reduction may be granted to a specific setback distance if the Board finds that such reduction shall not adversely affect surrounding property and does not interfere with public utility lines or public road and rail rights-of-way.
02. The minimum distance between the tower support bases of any two WECS under different ownership shall be five times the diameter of the largest rotor. A reduction may be granted in this requirement if it finds that such a requirement does not adversely affect the operation of either WECS.
03. WECS operation shall not cause interference with power quality of area utility feeder circuits and shall not introduce noise to the connected electric distribution system. WECS shall not cause interference to radio, telephone, microwaves or television reception on adjoining property.
04. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS. Evidence is required that the utility company has been informed and has approved the customer's intent to install an interconnected customer-owned generator, prior to issuance of any construction permit. Owners shall also inform the electric utility of their intent to install off-grid systems prior to issuance of any construction permit.
05. Data pertaining to the turbine safety and stability shall be filed with the conditional use permit application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization, based upon standards set by the U. S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Turbine Verification Program or other certification program recognized by the American Wind Energy Association.
06. Sound produced by the turbine under normal operating conditions as measured at the property line, shall not exceed the definition of nuisance noise as defined in Section 4.50.080 'Sound levels by receiving land use' in Chapter 4.50 'Noise Control' of the Municipal Code. Sound levels may be exceeded during short-term events out of anyone's control, such as utility outages and/or severe weather.
07. No WECS shall be constructed, altered or maintained to project above the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.

08. A WECS shall be considered a discontinued use after six consecutive months without energy production. All WECS and accessory facilities shall be completely removed at owner's expense within 180 days of the discontinuation of use. The 180 day limit may be extended if proof of weather delay is provided.
09. Rooftop turbines, not to exceed 3 feet in total extended height, also known as architecturally integrated or vertical axis wind turbines are exempt from these requirements, if the total extended height does not exceed the maximum height permitted for the structure upon which it is placed.
10. 10. Safety and Design standards:
- (a) Rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
 - (b) All wind turbines shall be installed with a tubular, monopole type tower.
 - (c) All wind turbines and towers shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
 - (d) All communications and connector lines associated with the project distribution system shall be buried.
 - (e) Installation shall comply with the National Electrical Code. Line drawings with sufficient detail to substantiate compliance shall accompany the application.
 - (f) Standard drawings of the wind turbine structure, including the tower, base and footings along with an engineering analysis showing compliance with applicable regulations and certified by a licensed professional engineer shall accompany the application.
 - (g) Installation shall be completed by a qualified professional, certified by the manufacturer to install the system according to the manufacturer's recommendations.
 - (h) Outdoor storage is not permitted.
 - (i) Signs. All signs, including the manufacturer or installer's identification, appropriate warning signs or owner's identification on the WECS visible from any public road shall be prohibited.
 - (j) Lighting. No illumination of the turbine or tower shall be allowed unless required by the FAA.
 - (k) Access. Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing.

15.24.090 Front yard exception in residential districts. The required front yard shall be as stated in each zoning district, except when forty-five percent or more of the frontage on one side of a street between two intersecting streets is improved with buildings and a majority of the improved frontage have front yard setbacks less than those required for that zoning district, then the minimum required front yard setback for new construction shall be the average distance of the improved frontage.

15.24.100 Rear yard exception in residential districts. The required rear yard in an irregular lot may be measured as the average horizontal distance between the building and the rear lot line, provided that the closest point of the building to the rear property line shall not be less than sixty (60) percent of the rear yard required by the zoning district.

(Ord. No. 5323, Sec. 4, May 19, 1997)

Council Communication

Department: Community Development	Ordinance No.: N/A Resolution No.: <u>09 -151</u>	First Reading: N/A May 26, 2009 Second Reading: N/A Third Reading: N/A Public Hearing: N/A
Case/Project No.: N/A		

Subject/Title

10th Avenue Reconstruction Project - Street Improvements

Location

10th Avenue from South 6th Street to South Main Street

Background/Discussion

Background

The City, Pottawattamie County Development Corporation (PCDC) and the Iowa West Foundation have been working on redeveloping the South Main Street area around 9th Avenue for several years. PCDC is working with Artspace Projects, Inc. to convert the property at 1000 South Main Street into affordable multi-family housing for low income individuals and families. On October 8, 2007, the City Council adopted a resolution of support for the Low Income Housing Tax Credit project proposed by Artspace Projects, Inc., approved a development agreement detailing the local financial commitments for the project and approved \$145,000 in 2008 local HOME funds. However, prior to implementation of any project, the area's infrastructure must be improved. Prior to implementation of the infrastructure improvements Artspace Projects, Inc. must secure an investor for their Low Income Housing Tax Credits. An investor has been secured.

Discussion

The infrastructure improvements include sidewalk improvements, landscaping, street lighting, street paving, sanitary sewer, storm sewer, water and engineering/inspection. All public infrastructures will be designed, installed and inspected under the City's supervision.

On February 23, 2009, a public hearing was held and City Council approved the plans, specifications and form of contract. Bids from interested contractors are due on May 19, 2009. At that time, staff will update the staff report and resolution for City Council Consideration.

The engineer's estimate was \$283,810.40. After reviewing and verifying the bids, _____ was determined to be the low bidder. This project has an estimated start date of June 3, 2009 and should be completed by September 4, 2009. It is anticipated that existing project fund balances and project revenues will be sufficient to pay for project costs.

Engineering Recommendation

The Schemmer Associates Inc. has reviewed and tabulated the bids received for this project. They recommend award of the contract to _____.

Staff Recommendation

The Community Development Department recommends acceptance of the bid from _____ in the amount of \$ _____ for the 10th Avenue Reconstruction Project - Street Improvements.

Submitted by: Tina Hochwender, Program Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department

10th Avenue Reconstruction

Bid Date: 5/19/09

Council Bluffs, Iowa

City Project No. 09-05H

TSA Project No. 05569.001

@ 10Am

Bidder Name	Bid Bond	Remarks	Bid Total
RD Blue Construction, Inc.	✓		\$284,937.30
Leazenby Construction, Inc.	✓		\$285,910.36
MFT Construction Company	✓		\$294,080.49
Carley Construction, LLC	✓		\$293,418.20
ENGINEER'S O.P.C.			\$283,810.40

RESOLUTION NO. 09-151

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH R.D. BLUE CONSTRUCTION FOR 10TH AVENUE RECONSTRUCTION PROJECT.

- WHEREAS,** The City wishes to make improvements known as the 10th Avenue Reconstruction Project – Street Improvements within the City, as therein described; and
- WHEREAS,** This project will involve street reconstruction to 10th Avenue between South 6th Street and South Main Street; and
- WHEREAS,** Such improvements are required to accommodate the further development of the area residentially; and
- WHEREAS,** The plans, specifications and form of contract for the street improvements are on file in the office of the City Clerk; and
- WHEREAS,** A Notice of Public Hearing was published as required by law and a public hearing was held on February 23, 2009 and the plans, specifications and form of contract were approved; and
- WHEREAS,** R.D. Blue Construction has submitted a low bid in the amount of \$284,937.30 for this contract.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the bid from R.D. Blue Construction in the amount of \$284, 937.30 is hereby accepted as the lowest and best bid received for said work; and

BE IT FURTHER RESOLVED

That the City Council does hereby award the contract in connection with the 10th Avenue Reconstruction Project; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized, empowered and directed to execute an agreement with R.D. Blue Construction for and on behalf of the City of Council Bluffs, upon approval by the City Attorney of the certificate of insurance and payment and performance bonds as required by the contract specifications.

ADOPTED
AND
APPROVED: _____, 2009

Thomas P. Hanafan Mayor

ATTEST: _____
Marcia L. Worden Acting City Clerk

Council Communication

Department: Legal	Resolution No. <u>09-152</u>	First Reading Second Reading Third Reading _____
Case/Project No. _____		
Subject/Title		
Resolution authorizing the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel, One Harrah's Blvd., Council Bluffs, Iowa, for a violation of the State's tobacco laws.		

Background/Discussion
On April 10, 2009, compliance checks by the Council Bluffs Police Department resulted in a citation being issued to employee of Harrah's Casino and Hotel for providing tobacco to a minor. We are pursuing civil penalties against the permit holder. The civil penalty for a first violation is \$300. Harrah's Casino and Hotel has made payment of the \$300 penalty and has submitted their Acknowledgement/Settlement Agreement. A resolution has been prepared authorizing the Mayor to execute the Order to Accept the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel.
Recommendation
Authorize the Mayor to execute Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel for a first violation of the State's tobacco laws.

Don Bauermeister, Asst. City Attorney

Department Head Signature

Mayor Signature

RESOLUTION NO. 09-152

A RESOLUTION authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel, One Harrah's Blvd. Council Bluffs, Iowa, for a violation of Iowa Code Section 453A.2(1).

WHEREAS, the State of Iowa has enacted a comprehensive program aimed at reducing underage tobacco use; and

WHEREAS, compliance checks in Council Bluffs resulted in a citation being issued to an employee of Harrah's Casino and Hotel, One Harrah's Blvd., on or about April 10, 2009; and

WHEREAS, the mandatory civil penalty has been paid, and it is in the best interest of the City to execute an Order accepting the Acknowledgement/Settlement Agreement from the above business for this violation.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to execute the Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel for a violation of Iowa Code Section 453A.2.

ADOPTED
AND _____, 2009
APPROVED

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN Acting City Clerk

BEFORE THE CITY COUNCIL
FOR THE CITY OF COUNCIL BLUFFS, IOWA

IN RE:

Harrah's Casino and Hotel
One Harrah's Blvd.
Council Bluffs, IA 51501

**ORDER ACCEPTING
ACKNOWLEDGEMENT/SETTLEMENT
AGREEMENT**

ON this 26th day of May, 2009, in lieu of a public hearing on the matter, the City Council approves the attached Acknowledgement/Settlement Agreement between the above-captioned permittee and the City of Council Bluffs, Iowa.

THEREFORE, the City Council for the City of Council Bluffs, Iowa, FINDS that the above-captioned permittee has remitted to the City of Council Bluffs, Iowa, a civil penalty in the amount of three hundred dollars (\$300.00). Be advised that this sanction will count as a first violation of Iowa Code Section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a).

IT IS THEREFORE ORDERED that the judgment in this matter is hereby satisfied.

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN Acting City Clerk